

Owings, all the wood on the land, and the reversion of the land with the improvements, after all the ore should be taken out of it.

The answer of Miss Owings, admitted that she signed the agreement of the 8th of July, 1844, but stated, that she was induced so to do by the misrepresentations of Geiger, the complainant's agent, in reference to the land to be conveyed, that she supposed she was selling five acres at \$400 per acre, when in fact, the tract contained but two acres; and, that he also misrepresented to her the determination of Green, regarding a previous contract made by her with him. And she stated, that on detecting the fraud practiced on her, she forbade Geiger to enter on the land, which he did notwithstanding.

She denied, that she had authorized Turnbull to make any contract for her, or that she had ever entertained the intention of entrusting any of her interests to his agency; and said, that "to protect herself from any such allegation, (as well as denying the same to be true,) she alleges, that there is no writing signed by her to that effect, and she relies upon, and pleads the statute commonly called the statute of frauds."

The Chancellor, in delivering his opinion, after stating the case, said:]

THE CHANCELLOR:

With regard to the contract of the 8th of July, 1844, as set out in the receipt of that date, I do not deem it necessary to express any opinion, as it is manifest, that that contract, whatever its character may have been—whether obtained by false and fraudulent representations or not—has been merged in the subsequent agreement of July, 1845; which subsequent agreement alone, this bill seeks to enforce. And the question, therefore, is, whether the complainants have made out a case which entitles them to the aid of this court in compelling the specific performance, by the defendant Owings, of this latter agreement.

It is urged by the complainants' counsel, that the defendant, Owings, cannot protect herself under the plea of the statute of